

Application No. 10/041,119  
Amendment dated July 2, 2004  
Reply to Office Action of March 4, 2004

## **REMARKS**

Claims 2-9 and 11-21 are pending in the application.

Applicants appreciate the Examiner's courtesy in a conducting a telephone interview on June 23, 2004 to discuss the 35 U.S.C. §103 rejection of the pending claims over U.S. Patent No. 6,129,701 (hereinafter "Cimino '701") in view of U.S. Patent No. 4,445,509 (hereinafter "Auth '509"). Applicants further appreciate the Examiner's withdrawal of the rejection of Claims 2-9 and 11-21 over Cimino '701 in view of Auth '509 during this telephone interview.

The Examiner has directed Applicants attention to U. S. Patent No. 6, 579,299 to McGuckin, Jr. et al. (hereinafter "McGuckin, Jr. '299") and U.S. Patent No. 6,719,803 to Bonutti (hereinafter "Bonutti '803") during the June 23, 2004 telephone interview.

McGuckin, Jr. '299 discloses a surgical apparatus for removing deposits from an interior vessel. The apparatus includes a rotating tip with cutting grooves formed therein for cutting plaque away from the interior wall of the vessel. Bonutti '803 discloses a percutaneous tissue removal apparatus having a cutting tip mounted to the end of a drivable shaft.

In the patent application at issue, Applicants disclose a debridement extension for removing soft tissue. Applicants respectfully submit that neither McGuckin, Jr. '299 nor Bonutti '803 disclose or suggest all of the limitations of Independent Claims 5, 6, 14, 16, 18, and 20 and claims depending therefrom.

Independent Claims 5, 6, 14, 16, 18 and 20 all call for a debridement extension having a proximal end and a distal end, the proximal end being adapted for connection to an irrigation source and a suction source, the debridement extension comprising, *inter alia*, a debridement tip affixed to the distal end of the debridement extension wherein the debridement tip is not rotatable relative to the debridement extension, with the debridement tip in fluid communication with both an irrigation path and a suction path.

McGuckin, Jr. '299 discloses a surgical apparatus including a rotating tip such as tip 70 shown in the embodiment of Figures 15A and 15B. Tip 70 has cutting grooves 84, 86, and 89 formed therein for cutting plaque away from the interior wall of the vessel (Figures 18-20). Tip

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70 is also provided with port 80 which provides an outlet for the removed plaque and deposits. Internal lumen 82 (Fig. 15B) and distal opening 83 (Fig. 15A) are formed in tip 70 to respectively receive hollow shaft 22 (Fig. 18) driven to rotate tip 70 and guide wire 60 (Fig. 18). Referring to the embodiment of Figure 21, an aspiration device may be used to facilitate removal of the cut particles. The aspiration device includes aspiration lumen 202 and hook shaped fluid dispenser 204 which delivers saline to help direct debris through aspiration lumen 202. The saline provided to aid in removal of plaque particles does not flow through cutting tip 70.

Applicants respectfully submit that McGuckin, Jr. '299 does not disclose or suggest a debridement extension including a debridement tip affixed to the distal end of the debridement extension with the debridement tip in fluid communication with both an irrigation path and a suction path as is called for in Independent Claims 5, 6, 14, 16, 18, and 20. As described above, fluid dispenser 204 is not in fluid communication with cutting tip 70. Therefore, Applicants respectfully submit that Independent Claims 5, 6, 14, 16, 18, and 20, and Claims 2-4, 11-13, 15, 17, 19 and 21 which depend therefrom, are patentable over McGuckin, Jr. '299.

Bonutti '803 discloses a percutaneous tissue removal apparatus for removing bone. Referring to Figure 1, the apparatus includes flexible drill 12 having flexible shaft 14 and cutting tip 16. Suction passage 36 (Figure 4) is defined in flexible shaft 14 and is in communication with opening 38 (Figure 3) in cutting tip 16. Referring to Figure 5, flexible drill 12 includes outer sleeve 44 that circumscribes flexible drill shaft 41. Suction passage 46 and fluid injection passage 204 are defined within outer sleeve 44. As disclosed in column 6, lines 14-15, outer sleeve 44 is fixed or non-moving to minimize tissue damage. Cutting tip 16 is mounted to drive shaft 31 for rotation therewith.

Applicants respectfully submit that Bonutti '803 does not disclose or suggest a debridement tip that is affixed to the distal end of a debridement extension wherein the debridement tip is not rotatable relative to the debridement extension as called for in Independent Claims 5, 6, 14, 16, 18, and 20. To the contrary, cutting tip 16 of Bonutti '803 is not affixed to outer sleeve 44 but rather is affixed to an inner drive shaft 31 with cutting tip 16 rotating relative to outer sleeve 44, which Bonutti '803 requires to be non-moving to minimize tissue damage.

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See, e.g., Bonutti '803, column 6, lines 14-15. Therefore, Applicants respectfully submit that Independent Claims 5, 6, 14, 16, 18, and 20, and Claims 2-4, 11-13, 15, 17, 19 and 21 depending therefrom are patentable over Bonutti '803.

It is believed that the above represents a complete response to the Office Action and reconsideration is requested. Specifically, Applicants respectfully submit that the current application is in condition for allowance and such action is earnestly solicited.

In the event Applicant has overlooked the need for an extension of time or payment of fee, Applicant hereby petitions therefor and authorizes that any charges be made to Deposit Account No. 02-0385, BAKER & DANIELS.

If any questions concerning this application should arise, the Examiner is encouraged to telephone the undersigned at 260/424-8000.

Respectfully submitted,



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MICHAEL D. SCHWARTZ, NO. 44,326

NAME OF REGISTERED REPRESENTATIVE



SIGNATURE

July 2, 2004

DATE